

Louisiana Property and Casualty  
Insurance Commission  
Louisiana Department of Insurance  
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“Closing the Loophole”

Governor Kathleen Blanco signed the state’s new “open container” bill into law, which becomes effective August 15, 2004. Senate Bill 341 by Senator Chaisson, Representative Futrell and Senator Schedler is now Act Number 15. The old law applied only to drivers with an open alcoholic drink in their possession. The new law extends to passengers, thus “closing the loop-hole” that allowed Louisiana drivers to hand their open alcoholic drink to a passenger if stopped by law enforcement officials.

Louisiana becomes the 37th state to ban open alcohol containers in vehicles, with a few exceptions. These exceptions apply to:

1. Caterers and others who transport open alcohol containers required by their employment.
2. Passengers who pay to ride in a chartered bus, taxi or limousine.
3. Passengers in courtesy vehicles operated by hotels and casinos.
4. Passengers in motor homes more than 21 feet long.
5. Passengers and krewe members riding on a parade float.
6. Open containers placed in the trunk of a vehicle, a locked glove compartment, or in an area not easily assessible to the driver or passengers.

In the 18 parishes and 180 cities in Louisiana that had existing and various open container laws, this new law provides a statewide uniform enforcement. The law carries a fine of \$100 and court costs set by local governments with the exception of several cities and parishes with current higher fines. Kenner, Bossier City and the parishes of Jefferson, Orleans, and East Baton Rouge will be allowed to keep the existing higher fines that range from \$200 to \$500.<sup>1</sup>

A statewide law on banning open containers in vehicles has been a long time coming to Louisiana. In a state with nearly half of all the traffic crashes being alcohol-related, this new law should certainly help save lives and property. The national average for alcohol-related traffic crashes is less than 40 percent, so hopefully with the new law, Louisiana will see some improvements.

Source 1: “Senate OKs ban on alcohol in cars”, Ed Anderson. The Times-Picayune. 4/20/04.

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- ◆ The Louisiana Property and Casualty Insurance Commission was created by the enactment of R.S. 22:15 in the 2001Regular Session of the Louisiana Legislature to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana. The commission will also undertake a comprehensive study and provide oversight and enforcement recommendations of the effectiveness of law enforcement and implementation of programs aimed at enforcement throughout the state of those laws and programs which affect property and casualty insurance rates.

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Senate Bill 852

Senate Bill 852 by Senator Chaisson and Senator Dupre advanced out of the House Transportation, Highways and Public Works Committee on its way to the House floor for final debate.

The bill establishes a driver point system pilot program for drivers under the age of 18, increases the license suspension for a driver convicted of a second DWI, and helps implement an existing Article 894 database.

The pilot program targets the 15 to 17 year old drivers because they have the highest crash activity in the state. It establishes a “point system” for traffic violations, which are accumulated over a two year period. Different violations carry different point assignments, based on the seriousness of the offense. The points range from one to twelve and the following moving violations are an example:

Speeding	3	Reckless driving/Operation	6
Hit and Run	6	Improper passing	3
Improper turning	2	Improper lane change/usage	1
Failure to yield	2	Failure to stop	2
Failure to signal	1	Careless driving	2
Driving on shoulder	2	Improper backing	1
Following too close	2	Seat belt violation	2
Curfew violation	3	Resisting by flight	6
Wrong way on one-way street	3		
Driving on wrong side of road	3		
Failure to maintain control	3		
Failure to yield to emergency vehicle	4		
Underage driving under the influence	4		
Operating a vehicle while intoxicated	12		

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Continued from the previous page-

When violations add up to twelve points, the driver’s license is suspended for 30 days. The driver can reduce point totals by taking driver education and safety classes. The points automatically go away when a drivers reaches his/her eighteenth birthday. Because driving is considered a “privilege” as opposed to a “right,” the privilege can be taken away.

By making the targeted age group more aware of driving safety and more aware of their own personal responsibility, we are better equipping Louisiana’s young drivers to be on the road. A secondary impact of this program could be a reduction in traffic crashes and insurance claims, resulting in a reduction of insurance rates. Forty-two states currently use the driver point system. This pilot program may move the state slowly toward an all-driver point system in the future.

*The driver point system could cause a reduction in traffic crashes, insurance claims and insurance rates.*

The second part of Senate Bill 852 deals with second conviction DWI penalties. The federal mandate regarding a second DWI conviction calls for suspending the driver’s license for one year, and not allowing a hardship license to be issued. Senate Bill 852 changes the current six month license suspension to a full year, but will keep the existing hardship license application. The hardship license allows travel only to and from work, school, church services and counseling.

The third and final part of Senate Bill 852 allows the Louisiana Department of Insurance to give a one-time gift of up to \$300,000 of surplus money to help expediate the use of the database. The current Article 894 database, created in 1997, needs software brought up to code for proper utilization. The Office of Motor Vehicles will oversee and maintain the database.

The Department of Insurance will also partner with all district attorney’s, or any clerk of court’s office for training and usage of the database.

This upgraded database will provide a greatly needed tool in dealing with multiple DWI offenders, which has been a problem in the past. Many citizens wonder why they continually see arrests of fourth and fifth DWI’s in the state’s newspapers, and wonder how these offenders slip through the cracks. This problem should be corrected by having a uniform, statewide database receiving the necessary information after the conviction of the crime.